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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,459	07/11/2003	Marshall T. Denton	2078-5372US	3865
24247	7590	09/09/2005	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			BARNEY, SETH E	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/618,459

Applicant(s)

DENTON, MARSHALL T.

Examiner

Seth Barney

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/11/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because Figure 5 is too close to Figure 4 as currently submitted. Also, the examiner notes the current drawings are informal. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: In at least lines 15 and 24 on page 8 it appears as though "Figs 4 and 5" should be --Figs 1 and 5-- to properly correspond with the Figures.

Appropriate correction is required.

### ***Claim Objections***

3. Claim 6 is objected to because of the following informalities: --a-- should be present before "damping structure" in line 2 of the claim. Appropriate correction is required.
4. Claim 10 is objected to because of the following informalities: -a-- should be present before "structure" in line 2 of the claim. . Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker in view of U.S. Patent No. 2,192,415 to Schwarzenzer.

Regarding claim 1, Knickerbocker discloses an atomizer with a bottle operable to hold fluid. Knickerbocker does not disclose a resilient element. Schwarzenzer discloses a resilient element (C) that fits around a container (A). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the

resilient member of Schwarzenzer to the sprayer of Knickerbocker in order to provide support.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker and U.S. Patent No. 2,192,415 to Schwarzenzer as applied to claim 1 above, and further in view of U.S. Patent No. 3,402,741 to Yurdin.

Knickerbocker as modified by Schwarzenzer discloses all of the limitation of the claim except for a extension conduit between the pump mechanism and the atomizing nozzle. Yurdin discloses a self supporting, bendable, shape retaining discharge conduit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the conduit of Yurdin to the sprayer of Knickerbocker in order to spray in a desired direction and to maintain that direction.

8. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker, U.S. Patent No. 2,192,415 to Schwarzenzer, and U.S. Patent No. 3,402,741 to Yurdin as applied to claims 1 and 2 above, and further in view of U.S. Patent No. 6,253,971 to Cobb.

Regarding claim 3, Knickerbocker as modified by Schwarzenzer and Yurdin discloses all of the limitations of the claim except for a brace. Cobb discloses a brace with a first end adapted for engagement with the bottle, and a second end carrying structure adapted to engage the conduit at a location space apart distally from the pump mechanism, the brace being operable to resist movement of the nozzle during actuation of the pump mechanism. It would have been obvious to one having ordinary skill in the

art at the time the invention was made to add the brace of Cobb to the modified sprayer of Knickerbocker in order to secure the conduit to the base.

Regarding claim 4, the brace is configured to clip-on to the portion of the bottle.

Regarding claim 5, the second end of the brace is configured to clip-on to the conduit.

Regarding claim 6, the brace dampens motion of the nozzle relative to the base.

Regarding claim 7, a human digit through a vertical distance between a first and a second elevation actuates the pump mechanism. Furthermore, the brace is configured as configured, would provide a fulcrum for the flexible conduit.

9. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker in view of U.S. Patent No. 3,402,741 to Yurdin and U.S. Patent No. 6,253,971 to Cobb.

Regarding claim 8, Knickerbocker discloses a pump mechanism operable to pressurize a fluid in a pump bottle wherein the pump mechanism is actuated by a human digit. Yurdin discloses a flexible conduit. Cobb discloses a conduit and a brace between the conduit and the pump bottle configured to resist motion of the nozzle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the conduit of Yurdin to the sprayer of Knickerbocker in order to spray in a desired direction and to maintain that direction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the brace of Cobb to the modified sprayer of Knickerbocker in order to secure the conduit to the base.

Regarding claim 9, the conduit is deformable to orient a fluid discharge direction.

Regarding claim 10, the brace has a structure that provides a fulcrum location such that localized bending of the conduit can be achieved.

Regarding claim 11, the brace is removeable.

Regarding claim 12, the pump head can be removed.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker, U.S. Patent No. 3,402,741 to Yurdin, and U.S. Patent No. 6,253,971 to Cobb as applied to claim 8 above, and further in view of U.S. Patent No. 2,192,415 to Schwarzenzer.

Knickerbocker, Yurdin, and Cobb do not disclose a resilient element. Schwarzenzer discloses a resilient element (C) that fits around a container (A). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the resilient member of Schwarzenzer to the sprayer of Knickerbocker in order to provide support.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker in view of U.S. Patent No. 3,402,741 to Yurdin.

Knickerbocker discloses a bottle to hold fluid, a pump mechanism that is activated by a human digit. Knickerbocker does not disclose a malleable and deformable conduit. Yurdin discloses a self supporting, bendable, shape retaining discharge conduit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the conduit of Yurdin to the sprayer of Knickerbocker in order to spray in a desired direction and to maintain that direction.

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12. Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker and U.S. Patent No. 3,402,741 to Yurdin as applied to claim 14 above, and further in view of U.S. Patent No. 6,253,971 to Cobb.

Regarding claim 15, Knickerbocker and Yurdin do not disclose a brace. Cobb discloses a brace between a conduit and a bottle, the brace being operable to reduce motion of the conduit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the brace of Cobb to the modified sprayer of Knickerbocker in order to secure the conduit to the base.

Regarding claim 16, the brace of Cobb has a first end adapted for attachment to the bottle and a second end adapted for removable attachment to the conduit at a location spaced distally apart from the pump head.

Regarding claim 17, the second end of the brace is forms a clip on attachment to a portion of the conduit between the pump head and the nozzle.

Regarding claim 18, the portion of the conduit between the pump end and the second end of the brace would reduce a horizontal deflection of the nozzle during actuation of the pump mechanism.

Regarding claim 19, the brace of Cobb produces a fulcrum about with the conduit may bend so as to allow a vertical deflection of a proximal portion of the conduit and accommodate actuation of the pump mechanism. The fulcrum is located at a third elevation approximately midway between the first and second elevations and reduces a horizontal motion induced by the fulcrum by the vertical deflection of the proximal portion of the conduit.



13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker and U.S. Patent No. 3,402,741 to Yurdin as applied to claim 14 above, and further in view of U.S. Patent No. 2,192,415 to Schwarzenzer.

Knickerbocker and Yurdin do not disclose a resilient member. Schwarzenzer discloses a resilient element (C) that fits around a container (A). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the resilient member of Schwarzenzer to the sprayer of Knickerbocker in order to provide support.

14. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker in view of U.S. Patent No. 3,402,741 to Yurdin.

Regarding claim 21, Knickerbocker discloses all of the limitations of the claim except for a deformable conduit. Yurdin discloses a self supporting, bendable, shape retaining discharge conduit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the conduit of Yurdin to the sprayer of Knickerbocker in order to spray in a desired direction and to maintain that direction.

Regarding claim 22, the conduit of Yurdin comprises a multilumen conduit. See Figure 3.

Regarding claim 23, a deformable wire is disposed in it. See Figure 3.

15. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,306 to Knickerbocker and U.S. Patent No. 3,402,741 to

Yurdin as applied to claims 21-23 above, and further in view of U.S. Patent No.

6,253,971 to Cobb.

Knickerbocker as modified by Yurdin discloses all of the limitations of the claim except for a brace. Cobb discloses a brace with a first end adapted for engagement with the bottle, and a second end carrying structure adapted to engage the conduit at a location space apart distally from the pump mechanism, the brace being operable to resist movement of the nozzle during actuation of the pump mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the brace of Cobb to the modified sprayer of Knickerbocker in order to secure the conduit to the base.

Regarding claim 25, the portion of the conduit between the pump end and the second end of the brace would reduce a horizontal deflection of the nozzle during actuation of the pump mechanism.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 2,543,746 to Morrison discloses a resilient ring. U.S. Patent No. D338,064 to Jones et al. discloses a retaining ring. U.S. Patent No. 5,564,665 to Resnick discloses a retaining ring. U.S. Patent No. 6,325,237 to Gish discloses a resilient retaining ring. U.S. Patent No. 6,412,671 to Riely et al. discloses a conduit attached to a pump body. U.S. Patent No. 1,632,218 to Chaffin et al. discloses

a pump body with a bendable conduit. U.S. Patent No. 5,529,226 to Alberth, Jr. discloses a flexible conduit attached to pump body.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

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